

REMARKS

This is in response to the first office action mailed on October 19, 2004. A petition to extend the time to respond to the Office Action is enclosed separately. The examiner indicated that claims 1 through 17 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Balderson et al., 3,845,870 in view of Weagley, 6,112,438.

Independent claims 1 and 13 have been amended to add the structure of the pivotal attachment means that comprises a planar member that is attached to the side of the main bucket with hinged portions on the main bucket and the bucket extension. A hinge pin passes through the hinged portion to allow the bucket extension to pivot between the open and closed positions.

Applicant's invention is directed to a loader having a main bucket with an open front, closed back, and opposed sides. The opposed sides are illustrated as sides 34 in Fig. 2. The sides 34 provide the mounting support for the plate 24. One part of the hinge having a plurality of cylindrical tubes is on the plate and the other cylindrical tubes comprising the hinge are located on the bucket extension.

Weagley does not use a main bucket with opposed sides. Weagley illustrates a straight, open sided, main scraper blade 10 to which are attached the extensions 10L and 10R. The hinges 25 are connected to the front of the blade, not along a side of the main bucket, as no side exists to make the connection. This is a different structure than Applicant's invention which can easily be adapted as a retrofit for existing buckets. As there is no side structure in Weagley to attach the plate, or "planar member", Weagley cannot suggest or teach Applicant's invention.

Balderson does have a bucket with sides, however, as the examiner stated, there are no side bucket extensions illustrated in Balderson. Balderson merely illustrates a bucket having a configuration making it adaptable for several various uses. There is no suggestion to increase the width of the bucket by means of adding bucket extensions to the sides of the bucket.

None of the prior art teaches or suggests a solution to the problem of having side buckets pivotally attached to the sides of the main bucket in a loader. Furthermore none of the prior art suggests a planar mounting plate or member that is attached to the side of the main bucket to provide a portion of the hinge, with the complementary hinge components on the extension bucket. This makes Applicant's invention particularly adapted for retrofitting existing buckets with the bucket extensions on either side of the main bucket. As none of the prior art teachings suggest a solution to the problem, or even address the problem, it is inappropriate to use them singularly or combine them to reject applicant's claims.

As set forth in Ex Parte Clapp, 227 U.S.P.Q. 972 (1985) and In Re Geiger, 2 U.S.P.Q.2d 1276 (CAFC 1987), in order to support a conclusion that the claimed combination is directed to obvious subject matter, the combination must be taught by the

references themselves. It is well settled that the mere fact that references can be combined does not make the combination obvious under 35 U.S.C. §103, unless the prior arts contain the teaching of the combination. As the above detailed analysis makes clear, there is no teaching or suggestion in Weagley to use a side planar member attached to the side of the main bucket to provide the hinge means. Furthermore, Balderson does not suggest this structure.

Applicant further asserts that the Examiner's position is provided in light of Applicant's disclosure and that the Examiner is relying upon hindsight in proposing the combination of Weagley and Balderson. With knowledge of Applicant's device and the function that the planar member serves, Applicant's solution for attaching a pivotal side extension bucket to the side of the main bucket appears obvious to the Examiner. However, but for the Examiner's knowledge of Applicant's device, the combination of references would not have occurred to the Examiner. Applicant's assertion is further supported by the fact that those skilled in the art have not combined the cited references to design Applicant's device. Thus, the proposed combination of references cited by the Examiner is predicated upon the Examiner's knowledge of Applicant's device and is not obvious to a person skilled in the art. Applicant asserts that independent claims 1 and 13 are not obvious in view of Weagley and Balderson and present allowable claims.


The remaining claims are dependent claims and are more limited in their scope of coverage. More specifically they describe the locking means for locking the bucket extensions in the open position. As these claims are more limited, it is believed that they are also allowable. Reconsideration and reexamination of the amended application is requested.

In view of the amendment to the claims, it is believed that the application is now in condition for allowance. If the examiner believes that a telephone conference would assist in resolving any issues, the examiner is requested to contact the undersigned.

Respectfully submitted,

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